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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/042,130

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Robert M. Rello

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12/03/2003

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

EXAMINER

PURVIS, SUE A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

eb/b

Office Action Summary

Applicati n N .

10/042,130

Applicant(s)

RELLO ET AL.

Examin r

Sue A. Purvis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,7 and 8 is/are rejected.
- 7) ☒ Claim(s) 5,6,9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Applicant's drawings include a feature labeled with numeral "193" in Figures 18, 19, and 20, however the disclosure fails to make any reference to that numeral.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey (US Patent No. 5,160,570) in view of Andrew (US Patent No. 5,107,978) and Trine Quick Change 4500 or NJM Thorobred 350.

Dickey discloses a labeling apparatus with a conveyor (6) for moving the articles to be labeled, an infeed screw (3), a rotatable starwheel (5), a rotatable vacuum drum, and a supply of roll fed labels (20). (Col. 2, lines 48-68; Col. 3, lines 21-25.)

Dickey does not detail the drive means of the infeed screw or disclose a means for pivoting the feed screw both horizontally and vertically.

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Andrew discloses a distribution apparatus which uses feed screws (20). The feed screws (20) are adjustably mounted both for height above the conveyor (10) and for horizontal distance between their centers to accommodate different height and different width articles being distributed. Andrew also discloses pulleys (52) and drive belts (53) provide for the transmission of power from the crown gear drives (49, 51) to their respective timing screws. (Col. 3, lines 55-63; Col. 5, lines 3-20.)

Both NJM and Trine pamphlets disclose labeling machines which are adaptable for labeling articles of different sizes. Both discuss the use of changing parts.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Dickey adaptable for labeling articles of different sizes by having the feed screw adjustable both horizontally and vertically as taught by Andrew. Both Trine and NJM teach that it is known in the art to have a labeling machine be modified to adapt to labeling articles of different sizes. These pamphlets, however, discuss using interchangeable parts. It is within the purview of the artisan to know that a more efficient means of adapting a machine to change for articles of variable sizes would be to make the infeed screw of the labeling machine able to shift as shown in Andrew.

Regarding the gear drive, Andrew discloses pulleys and drive belts in combination with gear drives (49, 51) to rotate the feed screws (20).

Regarding claim 7, Andrew includes the feed screws being mounted on a frame (16) which is considered to be equivalent to applicant's 'cradle bar'.

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4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey in view of Andrew and Trine or NJM as applied to claim 3 above, and further in view of McCormick (US Patent No. 4,556,445).

Dickey in view of Andrew and Trine or NJM does not disclose using a jack to drive the feed screws. Andrew discloses gear drives (49, 51) but does not disclose whether it is a gear box and does not include a jack shaft.

McCormick discloses a feed screw assembly for a pair of horizontally disposed feed screws. Both of the feed screws are driven by a feed screw drive train which includes a gear box (26) and flexible shafts (28a, 28b), which connect gear box (26) to the can end feed screw (20) and the can body feed screw (22), respectively. (Col. 3, lines 46-58.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made that a gear box in combination with a "jack" shaft can be used in the device of Dickey in view of Andrew and Trine or NJM, because McCormick shows it as an alternative way of driving the screws.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey in view of Andrew and Trine or NJM as applied to claim 3 above, and further in view of Crankshaw (US Patent No. 5,050,720).

Dickey in view of Andrew and Trine or NJM does not include fixed handles.

Crankshaw discloses the use of handles (47) to allow the operator to disengage the feed screw. (Col. 5, lines 42-48.)

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include handles in the device of Dickey in view of Andrew and Trine or NJM, because Crankshaw teaches that it is advantageous to have a means for the operate to remove the screw and a handle allows the operate to remove the screw quickly.

Response to Arguments

6. Regarding applicant's argument that none of the prior art references discloses a gear drive for driving the feed screw, the examiner disagrees, as stated above, Andrew includes a gear drive for driving the feed screw.

7. Regarding applicant's arguments that Andrew does not disclose a feed screw which pivots both horizontally and vertically, the examiner disagrees. Since the feed screws of Andrew are mounted on the platforms which pivot both horizontally and vertically, the feed screws also pivot horizontally and vertically. There is nothing in applicant's claim which limits the feed screws such that they are not mounted on something, in fact the feed screws in applicant's invention are mounted on a "cradle bar" which pivots both horizontally and vertically.

Furthermore, claim 3 does not include a "pivotal mounting arrangement" as suggested by applicant's arguments. Claim 3 merely states "said feedscrew being pivotable both horizontally and vertically" and does not exclude the feed screw being mounted on something which allows it to be pivoted.

Allowable Subject Matter

8. Claims 5, 6, 9, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is an examiner's statement of reasons for allowance:

Regarding claims 5 and 6, there is no reason or suggestion for including 1st, 2nd & 3rd Browning gears in the device of Dickey in view of Andrew, Trine or NJM, and McCormick.

Regarding claims 9 and 10, the applicant details a set of handles disposed through a slot and their structural function. There is reason or suggestion for including such a feature in Dickey in view of Andrew, Trine or NJM, and Crankshaw.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (703) 305-0507. After December 20th, 2003, the examiner can be reached at (571) 272-1236. The examiner can normally be reached on Monday through Friday 8am to 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1495.



Sue A. Purvis
Examiner
Art Unit 1734

SP
December 1, 2003